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ABSTRACT

The New Jersey legislature passed the Public School Education Act of 1975 in response to a 1973 state supreme court decision that New Jersey's school finance system was unconstitutional. That decision was based on the court's conclusion that the New Jersey Constitution commands the state to provide an equal educational opportunity to all children and that the existence of gross disparities in interdistrict expenditures per pupil was a relevant indicator of failure to meet the constitutional mandate. The purpose of this report is to examine whether the expenditure cap provision has achieved the fundamental goal of the new act--minimizing disparities in per pupil expenditures--or the legislative goals--controlling expenditures and reducing taxes. Analyses of the effect of the act during its first two years indicate that whereas the legislative goals have been achieved, there has been virtually no progress, and there may have been regression, in eliminating disparities in per pupil expenditures. The New Jersey experience has been essentially the same as that of all other states using this mechanism; school cost growth and teacher salary increases are slowed down but expenditure variation between rich and poor school districts is not reduced. (Author/IRT)

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A Report of the
New Jersey Education Reform Project

A DISCUSSION OF
THE EXPENDITURE CAP PROVISION
OF THE NEW JERSEY
PUBLIC SCHOOL EDUCATION ACT OF 1975

May, 1978

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Larry Rubin

TABLE OF CONTENTS

		Page No.
List of Tables	.....	ii
Introduction	.....	1
I.	School Finance and the Expenditure Cap, Nationwide	2
II.	The Expenditure Cap Provision in New Jersey: Goals and Waiver Provisions	4
III.	The New Jersey Expenditure Cap Formula	6
IV.	Implementation of the Expenditure Cap Provision in the 1976/77 School Year	7
V.	Implementation of the Expenditure Cap Provision in the 1977/78 School Year	17
VI.	A Critique of the State Evaluations of the Expenditure Cap Provision	20
VII.	The Effectiveness of the Expenditure Cap Provision: Critical Issues	30
VIII	Summary	39
IX.	Recommendations	44
X.	Conclusion	51

LIST OF TABLES

Page No.

1. Analysis of Expenditure Cap Data for 10 Selected School Districts 31
2. Simulation of Revised Expenditure Cap Formula on Five Hypothetical School Districts 46
3. Simulation of Revised Expenditure Cap Formula on Two Hypothetical School Districts 48

INTRODUCTION

The Public School Education Act of 1975 was passed by the New Jersey legislature in response to a 1973 State Supreme Court decision that New Jersey's system of school financing was unconstitutional. That decision was based on the court's conclusion that, 1) the New Jersey Constitution commands the state to provide an equal educational opportunity to all children, and 2) that the existence of gross disparities in inter-district expenditures per pupil was a relevant indicator of failure to meet the constitutional mandate.[1] The court had ordered the legislature to define in operational terms the state's constitutional obligation to provide a "thorough and efficient system of free public schools for the instruction of all children in the state between the ages of five and eighteen years."[2] The court had also ordered the legislature to develop a new funding system to ensure that each district would be enabled to meet the requirements of the system as defined by the new legislation.

The state aid formula of the new act contains an expenditure cap provision, which is discussed in this report. It is a common component of state programs for school finance reform, which legislators include in order to make certain that increased state aid leads to property tax reduction, rather than unwarranted school budget increases. At the same time cap formulas are

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[1] Supreme Court of New Jersey, Robinson V. Cahill, A-104, September 1974, pp.5-6.

[2] N.J. Constitution, Article VIII, Sec. IV, para.1.

generally designed in a manner which allows low spending districts to catch up to higher spending districts. The purpose of this report is to examine whether the expenditure cap provision in New Jersey has achieved the fundamental goal of the new act, to minimize disparities in per pupil expenditures, or the legislative goals of expenditure control and tax reduction.

I

SCHOOL FINANCE REFORM AND THE EXPENDITURE CAP, NATIONWIDE

The 1970's have been a particularly active period for school finance reform throughout the nation. Motivated by court cases and/or political pressures to equalize per pupil expenditures across fiscally advantaged and disadvantaged school districts, over twenty states have enacted fundamental changes in their public education funding systems.[3] State finance reforms generally have four components: 1) substantial increases in state aid; 2) substantial reduction in property tax rates; 3) an increased recognition of unusual educational needs or costs; and 4) systematic controls on local school budget growth through tax limits or ceilings on expenditure increases.[4]

The fourth component, the highly controversial expenditure control provision, has been adopted by most reform states in

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[3] Allan Odden, John Augenblick and Philip E. Vincent, School Finance Reform in the States, 1976-77: An Overview of Legislative Actions, Judicial Decisions and Public Policy Research, (Denver: Education Commission of the States, 1976) p.1.

[4] John J. Callahan and William H. Wilken, "State School Finance Reform in the 1970's", School Finance Reform: A Legislator's Handbook, (Washington, D.C.: The National Conference of State Legislators, 1976), p.1.

order to limit or reduce local property tax rates, to limit expenditure increases in fiscally advantaged districts, to minimize the amount of additional state aid necessary to equalize the status of fiscally disadvantaged districts, and to help reduce per pupil expenditure disparities between high and low spending districts.[5]

Some states have established school district expenditure limitations from one year to the next at no more than a fixed dollar amount. The intent of these established limits has been to allow districts to increase their expenditures at a level sufficient to offset inflationary cost increases, with exceptions for unusual enrollment or other uncontrollable expenses. Other states have established upper limits on local district school tax rates, which in some states may be exceeded by voter override.[6]

In general, these programs have produced property tax relief, despite the relative ease with which districts have obtained cap waivers. States with expenditure controls have been relatively successful in slowing down school cost growth and have experienced below average increases in teacher salaries. However, they have not been successful in reducing expenditure variation between rich and poor districts, primarily because the controls are not sufficiently broad, and because rich districts have more frequently sought waivers or obtained voter overrides.[7]

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[5]Dale Cattanach, Robert Land and Lloyd Hooper, "Tax and Expenditure Controls: The Price of School Finance Reform." School Finance Reform: A Legislator's Handbook, p.60.

[6]Ibid.

[7]Ibid.

II

THE EXPENDITURE CAP PROVISION IN NEW JERSEY

GOALS AND WAIVER PROVISIONS

New Jersey's Public School Education Act of 1975 contains an expenditure control or "budget cap" provision, which has four major goals:[8]

1) to prevent large, wasteful expenditure increases, during a short period of time, which might otherwise occur when districts received substantial increases in state aid;

2) to limit state liability for future state school aid (The state aid formula includes an equalization support component under which the state gives each district at least ten percent of its net current expense budget.[9] Therefore, the higher the districts' budgets, the higher would be the state aid);

3) to reduce disparities in per pupil expenditures among high spending and low spending districts, by allowing low spending districts to increase their expenditures at a higher rate than high spending districts; and

4) to ensure that the new income tax would lead to property tax reductions or stabilization as promised, rather than to school expenditure increases.

Two exception clauses included in the budget cap provision permit expenditure caps to be waived for individual districts. One exception may be made for anticipated enrollment increases.

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[8] Budget Caps (Trenton, New Jersey: Joint Commission on Public Schools, 1976).

[9] "Net Current Expense Budget" means the balance after deducting from the Total Current Expense Budget, (1) State support for categorical programs, (2) the transportation amount in the current expense budget, and (3) all other revenue in the current expense budget except the amount to be raised by local taxation, equalization state support and state support for approved transportation.

The other exception is a catchall provision which enables the Commissioner to exercise judgments regarding a district's contention that the cap would prevent the district from meeting the state's requirements with respect to the "Thorough and Efficient" regulations of thePublic School Education Act.

Clearly, the four goals of the cap provision are legislative goals, not court goals. Only the third goal is concerned with the fundamental purpose of the act, to provide a thorough and efficient education for all children, while the others focus primarily on taxpayer protection. As a result, when the New Jersey Supreme Court reviewed the Public School Education Act, it raised some questions about the budget cap provision. "We are not sure what purpose is sought to be served by this provision. It may be that the legislature feared that immoderate increases might unduly add to already excessively high tax burdens. It may have had other aims in mind. In any event the Commissioner is authorized to approve requests for larger increases where the level of spending would be insufficient to meet the goals, objectives and standards established to satisfy the requirements of a thorough and efficient education. How many districts and what amount of dollars are involved is of course unknown at this time, but certainly this escape valve is at least adequate to satisfy facial constitutional requirements."[10]

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[10]Supreme Court of New Jersey, Robinson V. Cahill, A-96, September, 1975, pp. 26-27.

III

THE NEW JERSEY EXPENDITURE CAP FORMULA

The "budget cap" formula to be found in Section 18A:7A-18 of the Public School Education Act of 1975 functions as follows.

For districts spending above the State Average Net Current Expense Budget (NCEB):

$$\left(\begin{array}{l}\text{3/4 x Latest Annual \% change in Statewide Equalized Valuation}\end{array}\right) \times \left(\begin{array}{l}\text{Prior Year's State Average NCEB per Pupil}\end{array}\right)$$

For districts spending below the state average NCEB:

$$\left(\begin{array}{l}\text{3/4 x Latest Annual \% change in Statewide Equalized Valuation}\end{array}\right) \times \left(\begin{array}{l}\text{Prior Year's State Average NCEB per Pupil}\end{array}\right) \times \frac{\text{Prior Year's State Average NCEB per Pupil}}{\text{Prior Year's District NCEB Per Pupil}}$$

This formula assumes that the latest annual percentage change in total state equalized property wealth multiplied by 3/4 results in an accurate indicator of the statewide inflation rate and is therefore an appropriate guide for determining reasonable school budget limits. For example, a 10% increase in statewide property valuation, multiplied by 3/4, would yield a 7.5% inflation rate factor. This 7.5% rate is then multiplied by the prior year's state average NCEB to determine a statewide per pupil limit for above average expenditure districts.

For the 1977/78 school year, the percent increase in statewide equalized property valuation was computed as 7.1766%. The prior year's state average NCEB was $1,506. Therefore, the spending limit for above average expenditure districts was computed as $108 per pupil.

The additional multiplier in the budget cap formula shown above for districts spending below the state average allows these districts to increase their per pupil expenditure limits above the limit set for districts spending above the state average. They can do this by multiplying the $108 limit by a ratio of the state's prior year NCEB per pupil to the district's prior year NCEB per pupil. For example, if a district's prior year NCEB was $1,000 and the state's was $1,506, the additional multiplier would be $1.506. When the $108 limit is multiplied by 1.506, the district's allowable per pupil limit is increased to $162.

IV

IMPLEMENTATION OF THE EXPENDITURE CAP PROVISION IN THE 1976/77 SCHOOL YEAR

The Budgetary Context

In November 1975, while districts were preparing their 1976/77 budgets, it had not been determined if Chapter 212 would be approved by the state court or fully funded by the state legislature. As a result, the New Jersey State Department of Education (SDOE) could not provide districts with precise state aid figures, so it provided four substantially different possible aid figures to each district. In December districts were advised of the expenditure cap which would apply if the Act were implemented and on January 30, 1976, the New Jersey Supreme Court declared the new Act to be constitutional if fully funded. However the legislature had not yet fully funded the Act. As a result the Governor, in his budget message that February, required districts

to add 25% of the cost of the Teachers Pension & Annuity Fund (TPAF), which is normally fully funded by the state, to their budgets.

The following week the SDOE informed districts of the aid to be received if the Act were fully funded, but warned them that full funding was uncertain. District responses varied. Some prepared budgets as if the Act would be fully funded and they would receive all their state aid and would not have to absorb the TPAF costs. Other districts cut their budgets, assuming substantial aid reductions and the TPAF absorption.

As a result of these events, the 1976/77 school year must be examined with the understanding that it is not fully representative of the potential impact of the expenditure cap provision and that other factors may have had a far greater effect upon school district budget decisions.

Administration of Waiver Requests

Included in the expenditure cap provision of the Public School Education Act of 1975 is a section which authorizes waivers of the cap by the commissioner when, in his judgement, "(1) a reallocation of resources or any other action taken within the permissible level of spending would be insufficient to meet the goals, objectives and standards established pursuant to this Act, or (2) an increased enrollment may reasonably be anticipated in the district."[11]

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[11] 18A: 7A-25

The actual administration of the waiver provision was delegated by the Commissioner to the 21 county superintendents who were authorized to grant waivers in cases of:[12]

(1) enrollment increases;
(2) inability to meet "T&E" requirements; and
(3) Other reasons, including:
   a) heavy use of appropriated surplus balances in 1975/76 budgets,
   b) problems caused by use of a single state average expenditure level for all school districts, when some were high cost districts;
   c) tuition increases for spending districts;
   d) new buildings openings;
   e) appropriations for the TPAF contribution;
   f) other reasons.

The Joint Committee of the Public Schools of the New Jersey Legislature (JCPS) is responsible for evaluating the effectiveness of the Public School Education Act. In a review of the impact of the expenditure cap provision, it pointed out that for the fiscal year 1976/77, 170 districts, or 28% of the state's 602 districts, applied for expenditure cap waivers, and 165 of the 170 were granted exceptions. As a result, the planned statewide spending limit of 9.6%, or $200 million rose by $23 million to 10.7%..However, a subsequent legislative decision to appropriate funds to cover TPAF contributions eliminated the need for the largest number of waiver requests, and reduced the number

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[12] Budget Cap Administration For 1976-77 Digest, (Trenton: Joint Committee on the Public Schools, November 1976), p.2.

receiving waivers to 97. Subsequent additional spending increased the statewide spending limit to 10.3% instead of 10.7%.[13]

The bulk of the remaining requests were due to enrollment increases, or increases in the tuition rates of receiving districts, or problems caused by a decline in the appropriated surplus balance from the prior budget year.[14]

The JCPS evaluated the manner in which the SDOE monitored district requests for budget cap waivers. In their view, because of a variety of pressures from state officials and local districts on county superintendents, "differing personal philosophies, differing local traditions, and different interpretations of departmental instructions appear to have resulted in varied applications of the law."[15]

The JCPS Report also made the following observations:[16]

> Instructions from the Commissioner to the county superintendents for 1976/77 seemed to be inadequate. Detailed directions were given for some kinds of cases, but every situation could not and never can be anticipated. More important was the lack of any clear

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[13] Ibid.

[14] This problem was explained in Budget Cap Administration For 1976-77 Digest, p.4, as follows: "Appropriated Surplus Balances - When a school district uses large amounts of surplus funds to balance its budget, it functions with a relatively low net current expense budget, the base figure from which the next year's permissible growth is measured under the budget cap provisions. If the district does not have much surplus remaining to do the same thing in the future, the budget caps may force an actual reduction in the district's total budget. This was a particular problem in 1976-77, because of large uses of surplus in 1975-76 budgets, and 36 budget cap exceptions were granted for this reason. The problem appears to be phasing out, unless action on S1503 re-creates the problem by allowing the build-up of large surplus balances in many school districts."

[15] Budget Cap Administration For 1976-77 Digest, (1977) p.3, op.cit.

[16] Ibid., pp.3-4.

> and comprehensive interpretations by the Commissioner of the statuatory language. The rationale for the exceptions authorized was never documented. A clear policy statement is needed, so that a rationale for exceptions can be available to the county superintendents' who have to make the decision under a decentralized system of administration.

In evaluating the performance of the county superintendents, the JCPS report had the following to say:[17]

> although the two basic memos from the Commissioner indicated a wide range of documentation which should be required, requests sometimes were granted on the basis of sketchy information and as a result of telephone conversations. Statements of local goals, objectives, and standards were almost totally lacking -- a condition not unexpected in the first year under the new law.
>
> Partially because of the informal administration of the budget caps, and partially due to low budgetary expectations for 1976-77, the application of the caps for this year appears to have been carried out with a minimum of friction and controversy, and with only a minor impact on the budget increase ceiling. However, with the constitutional questions settled, and with funding through a State income tax now a reality, higher expectations in the future will place much more pressure on the budget caps and will make a more uniform and formal administration of them a necessity.

Because the first implementation of the cap provision took place during a year when districts were faced with uncertainty over the level of state aid, many districts prepared conservative budgets and were therefore not necessarily too concerned with the retraining influence of the cap. However, once the income tax was passed, and full funding of state aid became a certainty, many observers expected that budgets would go up, and waiver applications would increase in the second year. The reverse was

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[17] Ibid.

true in 1977/78 when only 78 districts applied for cap waivers for 1977/78, compared to 170 in the prior year. However, in 1978/79, the number of requests jumped to 148.

Fiscal Impact

A subsequent report of the JCPS focused on the fiscal impact of the budget cap provision on the 1976/77 school year.[18] The report disclosed the following information with respect to the 97 districts which actually received expenditure cap waivers:

1. Of the $14 million in authorized waivers to 97 districts, subsequent budget cuts resulted in the use of only $7 million by 70 districts.
2. Districts with secondary grades and county vocational schools requested proportionately more waivers than other districts due to relatively higher costs per pupil.
3. Districts with relatively high per pupil expenditures showed a slight tendency towards more frequent waiver requests.
4. There was no clear association between property wealth per pupil and waiver requests.
5. Smaller districts more frequently requested waivers than larger districts.
6. Of the 25 districts obtaining waivers due to forecasted enrollment increases, only 3 districts actually showed subsequent enrollment increases.

Goal Achievement

The JCPS study also reported on the extent to which the expenditure cap provision achieved the four goals sought by the

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[18] The Fiscal Impact of Budget Caps in 1976-77, (Trenton: Joint Committee on the Public Schools, 1977), pp.16-24.

legislature: prevention of large and inefficient increases; limitation of state fiscal liability; property tax relief; and equalization of expenditures per pupil.

Prevention of Large and Inefficient Increases

The JCPS report concluded that actual budget increases in 1976/77 were not unusually large; as a result of conservative budgeting, actual budget increases were far smaller than permissible increases. Although 45 districts could have increased their Net Current Expense Budgets (NCEB) in excess of $1 million only 16 districts actually did so. Four others did so as a result of cap waivers.

However, the report did warn the legislature that the potential increases were substantial. It suggested that "If the legislature should conclude that budget increases permitted by the statutory formulas are so large that they may contribute to inefficient operation, it might authorize or direct the Commissioner of Education to review in greater than normal detail all increases which exceed a specified index number."[19]

Limitation of State Fiscal Liability

Inasmuch as the equalization portion of state aid is calculated as a percentage of each district's NCEB, the higher the statewide total NCEB, the higher will be the total of state aid. However, because districts utilized only about 40% of their

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[19] Ibid. p.33.

permissible caps, a potential increase in state aid of $109 million was reduced to $49 million. Analysis of the pattern of under-utilization showed that relatively lower spending districts, those spending below 115% of the state average, utilized about 55% of their caps compared to only 33% for districts spending above that level.[20]

Property Tax Relief

Although school property taxes in 1976 declined by $4,187,612, and the tax rate declined from $1.76 to $1.66, the JCPS report was uncertain about the extent to which the budget caps per se were responsible.

Equalization of Expenditures Per Pupil

The study concluded that "there was a modest movement toward equalization of budgeted expenditures per pupil"[21] between 1975/76 and 1976/77. Their conclusion was based upon the following reported facts:

1) The percentage of districts with NCEB per pupil ranging from 85% to 115% of the state average (referred to as "the band of equality"),[22] increased from 52.7% to 54.6%.

2) The percentage of pupils within the "band of equality" rose from 62.9% to 63.7%.

3) The coefficient of variation[23] of NCEB per pupil for all districts fell from .1946 to .1911, a reduction

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[20] Ibid. p.40.

[21] Ibid. p.88.

[22] The "band of equality" is used in the JCPS study as "A simple method of measuring the degree to which equalization...exists." Its boundaries are arbitrary but if used consistently "...will show whether equalization of spending is taking place..." (p.58).

[23] A statistic which measures the extent of dispersion or spread about the mean average.

of 1.8%, and for all districts other than county vocational districts from .1696 to .1637 or 3.5%. This result continued the pattern of reduction shown between 1974/75 and 1975/76 when the coefficient of variation fell by 5.0%.

4) The 147 districts spending below 85% of the state average NCEB per pupil increased their expenditures by $127 per pupil, compared to $126 for the 304 districts spending between 85% and 115%, and $108 for the 113 districts spending above 115%.

The JCPS report also examined a number of potential problem areas and recommended some changes. For example it was found that it is unnecessary to change the present formula to deal with the appropriated balance problem, because the appeal process offers sufficient protection to affected districts. It did however, recommend a separate statewide NCEB for secondary and vocational districts which tend to have higher than average costs and are therefore damaged by a statewide K-12 NCEB cap.

The study examined the "catch-up" problem. It recognized that under the present formula, if all districts took the full cap allowed, that low spending districts could never catch up to high spending districts. However, the study concluded that this is not a serious problem because not all districts took full advantage of their caps. Nevertheless it did suggest that the Joint Committee might want to do something about the fact that 21.8% of the state's districts, including 16.8% of the state's pupils, budgeted less than 85% of the state average NCEB in 1976/77. It suggested the JCPS might want to set goals to realize some diminution of expenditure disparities. Towards that end it recommended "....that the Joint Committee set as a goal that,

by 1982-83, all districts should be budgeting at least 85% of the state average figure."[24]

The JCPS report also looked at the 23.6% of the state's districts, with 19.5% of the state's pupils, which spent more than 115% of the state average NCEB per pupil, and came to the following conclusion.[25]

> "Any process of 'levelling-down' the spending of these districts will be far more painful than raising the expenditure level of those at the low end of the scale. While these districts obviously must be kept under some restrictions if the low spenders are to "catch-up" to the average, there may be no constitutional necessity to look for any drastic reduction of the number of districts above the 115% spending level. The original Supreme Court decision in Robinson V. Cahill stated:
>
> > 'Nor do we say that if the State assumes the cost of providing the constitutionally mandated education, it may not authorize local government to go further and to tax to that further end, provided that such authorization does not become a device for diluting the State's mandated responsibility.'
>
> Moreover, it is possible that special circumstances in some parts of the state may require unusual expenditures in order to meet the requirements of the Constitution. With this in mind, it is recommended that the Joint Committee set as a goal the maintenance of the percentage of school pupils in districts spending above the 115% level at no more that 20% of all pupils in the state."

The possible restrictiveness of the budget cap was also examined, but because of the fiscal uncertainties in 1976/77 no definitive judgements were made. The study recognized that under-utilization of caps might not be as great in more stable years.

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[24] Ibid., Fical Impact, p.81.

[25] Ibid., p. 82.

It also pointed out that declining enrollment was having an ameliorative effect on what appeared to be restrictive caps. Finally the study recommended that the .75 multiplier be eliminated because it resulted in a cap limit which did not meet even normal inflationary cost increases.

V

IMPLEMENTATION OF THE EXPENDITURE CAP PROVISION IN THE 1977/78 SCHOOL YEAR

The Budgetary Context

Chapter 212 requires the SDOE to notify school districts of their expenditure cap by November 15. Districts then have until December 1, to submit their budgets for review by the County Superintendents. This schedule permits adequate time for cap appeals and public budget reviews prior to February when local elections are held.

The expenditure cap for one year is a percentage of the budget of the prior year. However, in November 1976, some districts were still appealing 1976/77 budget cuts which had resulted from the confusion over state aid for that year. As a result, the notification of the expenditure cap for 1977/78 was delayed until January 21, 1977 and district budgets had to be completed two weeks later. This left very little time for district planning, cap appeals, or County Superintendent review prior to local elections.

At the same time, Commissioner Burke, in a public speech had warned districts that cap appeals would be strictly scrutinized. A subsequent SDOE policy statement indicated that caps would be waived only if the districts could identify specific objectives which could not be achieved and that reallocation of resources was not a feasible solution.[26]

As a result of the tight schedule, and SDOE determination to closely scrutinize all appeals, review of the 1977/78 expenditure cap requests was judged by an SDOE report to be as difficult a task as it had been in the previous year.[27]

Administration of Waiver Requests

District waiver requests had to be made on special SDOE forms which called for detailed substantiation based on enrollment increases, or inability to meet legislative goals. Information supplied in the forms provided data which enabled the SDOE to search for solutions other than an increase in the budget beyond the level permitted by the cap.

The requests were initially reviewed by the County Office and recommendations were forwarded to Trenton to insure uniform review. Whereas waiver requests due to enrollment increases were easy to examine, requests based upon inability to meet goals, objectives and standards were very difficult to evaluate. Districts were required to identify the specific

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[26] Administration of the Budget Cap Review; 1977-78 School District Budgets, (Trenton: Department of Education, Division of Administration and Finance, April 1977), pp.3-4.

[27] Ibid., p.1.

programs which would be eliminated if increases were not approved, with basic skills programs given priority, and districts had to prove that they had tried to reallocate existing resources.

Of 78 districts which requested waivers, 42 had an NCEB above the state average, and 36 were below. The SDOE noted that 54% of the high spending districts and 46% of the low spending districts received all or part of their requests, suggesting that "the cap review procedures were administered without bias for or against high or low spenders."[28]

The 78 requests amounted to $23,291,000, of which $10,050,000 or 43% was approved, compared to the final approved increase of about $13,000,000 in the prior year. However, 10 of the 49 districts which received approvals suffered subsequent budget defeats, which would reduce the impact of the granted waivers.

Fiscal Impact

A preliminary analysis of 1977/78 budgets released by the JCPS staff in late November 1977, demonstrated that compared to a permissible statewide increase of 8.3%, the actual statewide increase in the NCEB was 6.8%. In 1977/78 districts had utilized 82% of their permissible increases, compared to only 52% in 1976/77. As in the prior year, districts with secondary grades showed a much higher utilization of caps than lower grade districts, and also submitted proportionately more waiver requests. Higher

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[28]Ibid., p.7.

spending districts showed about the same utilization of caps as lower spending districts, in contrast with the prior year when the higher spending districts took a relatively low proportion of their permissible increases. No data has yet been presented by the JCPS regarding the extent to which expenditure disparities changed during the 1977/78 school year.

VI

A CRITIQUE OF THE STATE EVALUATIONS OF THE EXPENDITURE CAP PROVISION

The prevailing tone of the two JCPS reports and the SDOE report on the workings of the expenditure cap during the first two years of the new act is that in general it has been successful. But what does it mean to be successful? It means that the goals of the provision were accomplished. But what if the goals themselves are inappropriate?

The expenditure cap provision sought to accomplish four goals: prevent large, wasteful increases; limit state liability; insure property tax reduction; and reduce disparities in per pupil expenditures. But only the last goal was the goal of the New Jersey Supreme Court. The first three were the goals of the legislature.

The court recognized that there was a built in contraction between the T&E process and the expenditure cap provision. On the one hand, the T&E system encouraged districts to engage in a planning process designed to maximize educational goals,

objectives and standards, while at the same time the expenditure cap provision placed severe limitations on expenditure increases which might be necessary to achieve those goals. The court accepted the provision only because the act permitted the Commissioner to waive the caps when necessary to achieve district goals. But fundamentally, the court's goal was to see an end to the gross disparities in per pupil expenditures. It was not concerned about limiting large increases in low spending districts. It certainly was not concerned that the state keep a lid on state aid. Nor did it care whether taxpayers had property tax reductions. Nevertheless, despite the fact that the studies conclude that only very modest progress was made towards reducing expenditure disparities, the provision is considered a success? Why?

Fundamentally, the "positive" results were found by agencies of the legislature and the State Department of Education, primarily against criteria of importance to the legislature, not the court. One must bear in mind that this is the same legislature which took three years to respond to the court's mandate to move towards equal educational opportunity for all children, the same legislature which watered down the size and composition of the governor's reform package to the point where it was of less value to the state's poor and urban districts than the unconstitutional Bateman Act would have been at the same funding level,[29] and the same legislature which refused to fully fund

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[29] Brief of the New Jersey Education Reform Project of the Greater Newark Urban Coalition, Amicus Curiae, Regarding the Public School Education Act of 1975, (Newark: New Jersey Education Reform Project, 1975).

the act until the schools were closed by the court. It is not surprising, in this light, that the legislative criteria were given far greater importance in the evaluation of the provision, than the reduction of pupil expenditure disparities.

b) Were the legislative goals achieved?

The evidence presented by the various JCPS and SDOE reports are reasonably sufficient to conclude that the expenditure cap provision was relatively successful in achieving the legislative goals. However, an examination of the legislative goals and the manner in which their successful achievement was evaluated provides enlightment into the thinking of the legislative branch. The first of the legislative goals was to prevent large, wasteful expenditures, which might otherwise occur as a result of substantial increases in state aid. What is large? The JCPS report focused on 45 districts which had permissible increases in excess of $1 million. But these were the largest districts in the state. Does not the district enrollment, and the increase per pupil have any significance?

Newark, the largest district in the state, was on top of the list, with a potential increase of $9,978,864.[30] But this represented a 9.5% increase on top of a net current expense budget per pupil in 1975-76 of $1,435, slightly less than the state average.[31] Newark probably has the greatest educational needs in

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[30] The Fiscal Impact of Budget Caps in 1976-77 (1977), p.30, op.cit.

[31] 1975-76 Current Expense Budget and Equalized Valuations Per Pupil, (Trenton: State Department of Education, 1976).

the state. A reduction in class size of only 10% could have fully utilized that increase. But at the very time, more than half the state's districts had a higher NCEB than Newark, some by well over $1,000 per pupil more. The question must be asked: Why does the JCPS study urge the JCPS to carefully watch as potentially wasteful an increase in Newark of about $138 per pupil, from $1,435 to $1,573, when 54 districts had an NCEB level in excess of $1,909 per pupil, and 23 were over $2,121 per pupil?

If "large" expenditures are considered potentially wasteful, then why not investigate whether those districts which are <u>now</u> spending the <u>most</u> per pupil are in fact "efficient"? Or must one assume that luxurious, suburban districts, with small classes, large support staffs and excellent facilities, are by definition "efficient"? Why is it assumed that expenditure increases which result from increased state aid are more suspect than expenditure increases which were previously easily available to property wealthy districts? Does this attitude reflect a kind of "grandfather clause" whereby districts with high expenditure levels prior to the new act will be considered efficient, but those seeking to match them will be considered suspect? How does this concern relate to the fundamental purpose of the act, which is to minimize per pupil expenditure disparities?

The JCPS study did make an effort to modify its exclusive focus on the absolute size of potential expenditure increases by the creation of an index in which the absolute amount was

multiplied by the percentage of increase. However this process focuses essentially on those large districts which had had relatively low per pupil expenditure levels, and ignores totally, small districts which had heretofore enjoyed very high expenditure levels.

Clearly the JCPS looks at large absolute increases because in its statewide perspective it is concerned with the impact on total state aid. But the court was concerned with disparities in expenditures per pupil, regardless of whether a pupil lived in a large or a small district. The JCPS consciousness of this criterion seems to be somewhat lacking.

c) Was the court goal achieved?

Based on its own data analysis, the JCPS study concluded that "there was a modest movement toward equalization of budgeted expenditures per pupil."[32] That conclusion is not possible if only because the JCPS study focused entirely on the "net current expense budget", not total expenditures. It rationalized that focus by suggesting that the net current expense budget was a better measure than the current expense budget because it eliminates from total expenditures some expenditures which reflect special extra costs due to the nature of the community which do not affect the average pupil, such as transportation and categorical aid programs.[33] However, even if it is appropriate to look only at the average student's resources, the

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[32] Ibid., p.88.

[33] Ibid., p.58

JCPS conclusion is simply not a true statement of fact.

The NCEB calculation does not subtract expenditures for categorical aid programs, such as special education and compensatory education. It subtracts state aid for those programs, whether or not the amount of categorical aid and the amount spent on categorical aid programs are identical. In order to accurately analyze expenditures per "average" pupil, one must look at total budgeted expenditures minus budgeted categorical aid programs and budgeted transportation. This is not an easy task due to the lack of appropriate information. A better, easier and more relevant alternative is to look at total expenditures per "weighted" pupil, using the extra cost "weights" assigned by the state aid formula to pupils enrolled in the various categorical aid programs, in order to demonstrate the extent to which resources are allocated to children in accordance with state defined needs differentials.

The inadequacy of the NCEB as a measure of resources was noted by the JCPS study in their explanation of the fact that there was a disappointing increase in the percentage of districts spending 85%-95% of the state average NCEB. The study pointed out that the increase was due to a reduction in the Newark NCEB, but that this "was compensated for by a large increase in categorical aid funds."[34] But the categorical aid received by Newark did not increase Newark's total expenditures; it merely increased its aid, and that aid was not utilized to

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[34] Ibid., pp.64-65.

improve the programs for which it was intended. This well known fact was unfortunately overlooked in the JCPS analysis. If the NCEB is the measure preferred by the JCPS to examine resources available to the average pupil, then why look at another measure when the results do not show "progress"?

Another point to consider is the fact that the JCPS created a "band of equality" of districts spending between 85% and 115% of the state average, and reported expenditure equalization "progress" because the percentage of students in this band increased, although almost imperceptibly, from 62.9% to 63.7%. However, this "band" in 1976/77 had an NCEB range from $1,285 to $1,739 per pupil, and $454 is hardly an acceptable range. The California court, for example, recently ordered the creation of a state aid system, which would lead to a range from top to bottom of less than $100 per pupil. If the "band of equality" is redefined as that group between 95% and 105% of the state average NCEB, a range of $150, from $1436 to $1587, the "progress" turns to abject failure, because the number of students in this band <u>fell</u> from 25.8% to 18.5%. At the same time the number of students below 95% of the state average NCEB <u>rose</u> from 40.5% to 45.5%, while the number above 105% rose from 33.7% to 36.0%. Is this progress? Clearly, one's conclusion regarding whether or not New Jersey has made progress in reducing disparities in expenditures per pupil depends first on the definition of the statistics used to measure progress, and second on what one considers to be an acceptable range of disparities.

The JCPS report recommended that the legislature establish certain goals regarding an acceptable range of expenditure disparities. It recommended that the JCPS set two goals: that in five years all districts should be budgeting at least 85% of the state average NCEB; and that no more than 20% of the state's pupils be in districts spending more than 115% of the state average NCEB. Using the 1976/77 data, this means that all districts would have an NCEB per pupil of at least $1,285, and no more than 20% of the state's pupils would receive more than $1,739 per pupil. The first goal is difficult to achieve because 16.8% of the state's pupils are now receiving less than 85% of the state average NCEB. The second goal is relatively easy to achieve because right now less than 20% of the state's pupils are above 115%.

Although the JCPS report did not suggest how these goals would be achieved, nor what would happen if they were not achieved, it is important to focus on this goal because it is the first time there has ever been a legislative statement which objectively defines their aspirations for equal educational opportunity. It appears that the JCPS is being asked to aspire to a situation in which 80% of the children would fall within a range of $1,285 to $1,739, while the other 20% could have any expenditure level at all above $1,739. Inasmuch as the NCEB per pupil in 1976/77 ran as high as $2,925 per pupil, the legislative goal (in 1976/77 dollars) would permit a range from $1,285 to $2,925; thus the legislature would approve of some districts spending

more than twice as much per pupil as other districts. This is clearly not a goal which would satisfy California's court maximum disparity of $100 per pupil. But would it satisfy the New Jersey Court?

The JCPS study suggested that the recommended goal may be acceptable to the New Jersey Supreme Court because of the following portion of the original Robinson V. Cahill decision:[35]

> "Nor do we say that if the State assumes the cost of providing the constitutionally mandated education, it may not authorize local government to go further and to tax to that further end, provided that such authorization does not become a device for diluting the State's mandated responsibility."

Is it conceivable that the court would accept as an undiluted definition of equal educational opportunity a situation in which some children enjoyed an expenditure level more than double that of other children? Apparently the JCPS study would say "yes", because "it is possible that special circumstances in some parts of the state may require unusual expenditures in order to meet the requirements of the constitution."[36] What "special circumstances"? The only "special circumstance" the JCPS recognized as a justification for cost differentials was grade level differences. What about the fact that salary levels differ by almost 30 percent, from southern to northern New Jersey? What about the fact that there is a very large variation among districts in the proportions of children in high cost programs,

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[35] Ibid. p.82.

[36] Ibid.

a fact not accurately reflected by the use of the NCEB statistic? Actually, the major reason why some districts will spend more than twice as much as others is because of higher property wealth and this is assuredly not the kind of "special circumstance" which will be acceptable to any Court.

It is possible, of course, that the expenditure range in five years may not be so wide. It is possible that low spending districts may catch up to higher spending districts. But it is not very likely.

The JCPS report dismissed the fact that the expenditure cap formula provides a theoretical obstacle to a "catch-up" by low spending districts, by pointing out that not all districts take full advantage of the maximum permitted increase. This is true, but it seems strange to rely upon a hope that districts will not fully use a defective formula, rather than improve the formula. As now designed, the annual increase allowed to low spending districts gets smaller every year until they reach the state average, at which time they are permitted an increase of the same amount as all districts above them. As a result, the formula is designed to guarantee that a district which spends $1,000 or more dollars per pupil more than another district can continue to do so forever. This is a condition which the JCPS report finds perfectly acceptable.

At this point, the reader may be understandably confused by the barrage of conflicting statistics which pertain

to New Jersey's "progress" toward the reduction of disparities in per pupil expenditures. The next section of this paper is intended to clarify the issues through detailed analyses of ten representative school districts.

VII

THE EFFECTIVENESS OF THE EXPENDITURE CAP: CRITICAL ISSUES

Inequities Caused by the Use of the Net Current Expense Budget

The first district listed in Table 1 demonstrates at least one problem caused by the use of the Net Current Expense Budget Per Pupil (NCEB), rather than the Current Expense Budget (CEB). North Hanover, which had a very low net current expense budget, due to a very large proportion of federal impact aid, was entitled to an expenditure cap of 43.3% or $266 per pupil during 1977/78. Vineland, which had approximately the same current expense budget per pupil had a permissible cap of only $144 per pupil that year.

Since the current expense budget rather than the net current expense budget reflects the actual resources received by children, the cap formula creates inequities when districts receive large amounts of Federal aid, or any other above average revenues. The effect of Federal impact aid is particularly inequitable because its underlying purpose is to provide the equivalent of local property tax income for the children of Federal employees whose families provide no property taxes. Because the impact aid is included in the revenue rather than the

TABLE 1

ANALYSIS OF EXPENDITURE CAP DATA
FOR 10 SELECTED SCHOOL DISTRICTS.

District	Enrollment 10/1/77	Equal. Prop. Wealth Per Pupil 10/1/77	Expenditure Per Pupil 1976/77		Net Current Expense Budget Expenditure Cap Per Pupil 1977/78		Current Expense Budget Per Pupil 1977/78
			Current Expense Budget	Net Current Expense Budget	$	%	
No. Hanover (Bur)	1,763	12,298	1,456	613	266	43.3	1,344
Lindenwold (Cam.)	1,533	62,230	859	772	211	27.3	1,027
Paterson(Passaic)	27,197	29,668	1,188	997	163	16.4	1,517
Vineland (Cumb)	11,345	47,311	1,396	1,131	144	12.7	1,681
Newark (Essex)	67,726	24,722	1,712	1,340	121	9.1	1,912
Hoboken (Hudson)	6,817	27,654	1,673	1,372	119	8.6	1,824
Plainfield (Un)	8,736	47,873	1,708	1,426	114	8.0	1,858
Fair Lawn (Ber.)	5,136	123,020	2,179	1,941	108	5.6	2,529
Princeton (Mer.)	3,004	188,616	2,359	2,153	108	5.0	2,663
Deal (Mon.)	200	429,976	3,584	2,925	108	3.7	4,276
Statewide	1,383,599	78,164	1,760	1,506	119	7.8	1,991

Source: State Department of Education State Aid and Expenditure Cap Calculations for 1977/78 and 1978/79.

tax section of the budget, it lowers the district NCEB, and raises its expenditure cap, despite the lack of any educational program justification.

The JCPS report pointed out other problems caused by the use of the NCEB, but rationalized its continued use because districts can always redress inequities through waiver applications. This does not however, justify the continued use of an inequitable measure. Inquiry with SDOE officials seems to lead to the conclusion that the only justification for the original recommendation for the use of the NCEB was to create a lower base on which to calculate caps, and thereby reduce total statewide expenditures and state aid. Without doubt, there are other alternatives which could achieve this particular purpose without the resultant inequities.

Emphasis on Minimization of Expenditures

Lindenwold, an elementary district, had one of the lowest current expense per pupil expenditure levels in 1976/77. The $859 per pupil was less than one-fourth of the $3,584 per pupil spent per pupil in Deal, another elementary district, with one of the highest per pupil expenditure levels in the state. Lindenwold could have increased its NCEB by 27.3% or $211 per pupil, but chose to raise its CEB per pupil by only $168, to a level just a little over one-half the state average.

Chapter 212 provides a set of district guidelines which include:

1) Instruction intended to produce the attainment of reasonable levels of proficiency in basic skills.
2) A breadth of program offerings designed to develop the individual talents and abilities of pupils.
3) Programs and supportive services for all pupils especially those who are educationally disadvantaged or who have special educational needs.
4) Adequate physical facilities and supplies.
5) Qualified personnel.

The Act also calls for a district annual report of progress towards the Act's goals,[38] and an evaluation of the sufficiency of district progress by the Commissioner.[39] The Commissioner is also required to review each district's budget to "determine the adequacy of the budgets with regard to the annual reports..."[40]

Is it possible for a district to meet the Act's guidelines with an expenditure level of $1,027 per pupil in 1977/78? Did the Commissioner evaluate Lindenwold's budget in the context of its annual report to make certain that it was adequate to meet the goals of the act? Has anyone in the SDOE questioned why Newark, with one of the lowest achievement records in the state, was permitted to prepare a budget which was $4 million less than its authorized maximum? Has the SDOE ever rejected any budget because it was too low? The answer to all these questions appears to be No.

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[38] Section 18A:17A-11.
[39] Section 18A:17A-14.
[40] Section 18A.17A-28.

During the past two years, a great deal of state resources have gone into the development, implementation and evaluation of an expenditure cap system, the purpose of which was not clear to the Court. At the same time the Commisioner's revue process, which the N.J. Supreme Court saw as essential to insure an adequate level of resources in each district,has been deferred. As a result, the huge disparities which led to the new act, remain.

The Catch-up Problem

In 1976/77, Paterson had a current expense budget of $1,188 per pupil and one of the lowest achievement records in the state. It raised its 1977/78 NCEB to the full extent allowed by the law which was $163 per pupil. At the same time Princeton, a district which enjoys one of the highest achievement levels in the state, and in 1976/77 was spending $2,359 per pupil, about twice the Paterson level, was allowed a cap of $108 per pupil. In other words, the cap formula allowed Paterson to catch up to Princeton by the amount of $55 per pupil per year. At that rate it would take about 21 years to catch-up. However, the formula is designed so that the "catch-up" amount goes down every year. But more important, if Paterson ever got to the state average NCEB, it would not be permitted any larger increase that Princeton, regardless of how much more Princeton was spending. The result is that the cap formula insures that Paterson could never catch Princeton.

The JCPS study discounted the catch-up problem, by pointing out that not all districts used the full amount of their cap, and a district could always apply for a cap waiver if necessary to achieve a "thorough and efficient system." Although this is true, in this particular example, Paterson did fully utilize its cap but Princeton applied for a waiver. It requested an additional $85 per pupil, and was allowed $35 per-pupil, thus reducing the amount of Paterson's "catch-up" to $20 per pupil. At the rate of $20 per year, it would take Paterson over 50 years to catch-up. However, as we have seen it could never catch-up. It is more logical to change the formula than to rely on district failure to exercise cap rights under the formula; it is also a more preferable way to achieve equity in per pupil expenditures.

Criteria for Cap Waiver Approvals

It is true that Paterson could catch Princeton faster if it submits waiver requests for higher budget levels. There is no certainty however, that those requests would be approved. For example, Hoboken, an urban center with a very large under-achievement problem, submitted a waiver request to raise its NCEB by $394 per pupil, and the entire request was turned down. At the same time, Fair Lawn, a high achieving district spending $506 per pupil more than Hoboken, received a waiver approval of $44 per pupil. As mentioned before, Princeton received a waiver of $35 per pupil, although it was already spending $675 more than Hoboken.

What are the criteria for acceptance and rejection of waiver requests? Did Princeton and Fair Lawn offer better explanations than Hoboken? Is it that Hoboken wanted to improve its programs beyond the Commissioner's definition of "T&E"? Is it that the criteria for Princeton and Fair Lawn were merely to prove that existing programs would otherwise be cut, or that class size would have to go up? Does this mean that the SDOE definition of "T&E" allows a higher level of expenditures for high spending than for low spending districts? Does it make sense for the SDOE to be pleased with its cap waiver administration because approximately the same proportion of approvals went to high spending as to low spending districts?

The Role of the Voter

However, even if Hoboken had prepared a well justified waiver request which was approved in full by the Commissioner, there is no guarantee that the subsequent budget would be accepted by the Hoboken voters. The JCPS study also made this point, in order to minimize legislator fears about the potential impact of waiver approvals. What happens though, when the Commissioner has declared a certain budgetary level to be necessary to meet district goals, objectives and standards, and the board changes its mind, or voters reject the budget? For example, Plainfield received a waiver approval of $370,000 and ended up with a net operating budget $130,000 below the original cap, or $500,000 less than authorized. Can the

Commissioner allow a budget cut which diminishes the budget below the state approved level? Is it enough to allow the district board to appeal the voter's decision, when failure to do so will clearly result in a less than "T&E" budget? In Type II districts,[41] the voter appears to be merely one more step in a series of hierarchical impediments to equality of educational opportunity.

The Effect of Declining Enrollment

Because the cap of one year's budget is based on a percentage of the prior year's budget, a reduction in enrollment can lead to substantial increases in per pupil expenditures, and in per pupil expenditure disparities. For example, because Fair Lawn lost 444 pupils between 1976/77 and 1977/78, a projected increase in the NCEB of $108 per pupil turned into an actual increase in the CEB of $350 per pupil. In Deal, the same situation led to an increase of $692 per pupil. As a result, the difference between one of the lowest and one of the highest spending districts, Lindenwold and Deal, was $2,725 per pupil in 1976/77 and $3,249 per pupil in 1977/78. These types of differences contradict the claim of "progress" made by the JCPS study. More importantly, they demonstrate that the formula is incapable of ensuring progress.

The Restrictiveness of the Budget Cap Formula

Many of the high spending districts have complained that the present formula results in an insufficient increase in

[41] Type II districts have either appointed or elected boards of education and budgets are approved by the voters. By contrast, in Type I district school members are appointed by the Mayor and school budgets are set by a board of school estimate without voter approval.

NCEB per pupil which fails to meet normal, necessary cost increases and therefore, must lead to reductions in the quantity or quality of program offerings. Although the state average permissible percentage increase for 1977/78 was 7.8%, the increase allowed above average spending districts ranged downward from 7.2% to as low as 3.7% for Deal. Salaries represent about 85% of all budgets and have been going up at about 6% per year. That alone would cause a budget increase of 5.1%. But fuel, insurance and other costs have also gone up as a result of inflation and other factors. It would therefore not be unreasonable to assume that any percentage increase of less than 6% would lead to a reduction in program offerings. However, declining enrollments have frequently turned apparent small percentage increases into rather substantial increases. At the same time, districts are permitted to request cap waivers, and these requests will be approved according to the Commissioner, if "they are justified in terms of programs that will be eliminated and specific objectives that will not be met if the waiver is not granted."[42] Fair Lawn and Princeton applied for waivers in 1977/78 part of which were approved. However, as indicated in an earlier section, only 36 of the 78 districts which applied for waivers for 1977/78, were above average spending districts. It would appear then, that because of declining enrollments, the use of accumulated surplus, or an inability to rationalize the necessity of some current programs, most high spending districts have been able to live within the cap. Of those who could not, like Fair Lawn and

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[42] Administration of the Budget Cap Review, (1977), p.4, op.cit.

Princeton, 45% received waiver aqprovals from the Commissioner.

It may seem inconsistent to view the failure of high spending districts to apply for waivers as a positive element, while viewing the failure of low spending districts to utilize even their full cap amounts as a negative element. These actions however, ultimately support the main objective of the Act which is to reduce disparities in per pupil expenditures. Unfortunately that goal has not yet even begun to be achieved.

VIII
SUMMARY

The Public School Education Act of 1975 was created in response to a mandate of the New Jersey Supreme Court to provide an equal educational opportunity to all children in the state, and to substantially reduce the state's gross interdistrict disparities in per pupil expenditures. The expenditure cap provision contained in the new act had four goals, one of which was to reduce expenditure disparities. The other three sought to minimize school expenditure increases in general in order to minimize state aid and ensure that the increase in state aid would result in property tax reductions. Although the court recognized the contradiction between its goal and the legislature's goals, it accepted the provision because it was merely one element of a mandated overall local planning and state evaluation process, and the provision allowed for waivers of the cap when necessary to meet the goals, objectives and standards of a "thorough and efficient" educational system.

However, analyses of the effect of the new act during the first two years of its implementation indicate that whereas the legislative goals have been achieved, there has been virtually no progress, and there may have been regression, in eliminating disparities in per pupil expenditures. The New Jersey experience with expenditure caps has been essentially the same as that of all other states using this mechanism; school cost growth and teacher salary increases are slowed down, but expenditure variation between rich and poor school districts is not reduced.

However, the expenditure cap provision is only one element of a total program and must be examined in that context. From this perspective there is strong evidence to indicate that the expenditure cap provision has become merely one step in a hierarchical series of impediments to the achievement of equal educational opportunity.

The first impediment is the planning process itself. As implemented to date, this process assumes that whatever the district defines as its goals, objectives and standards, will provide the equivalent of a "thorough and efficient" educational system.

District educational decisions are not just determined by what is good for children. Low wealth districts are constrained by high municipal tax rates which tend to lower school tax rates and expenditure levels despite state wealth equalization aid. Urban districts with higher than average municipal expenditures are even more constrained by this problem. As a result,

recent research[43] has shown that low wealth and urban districts have put larger proportions of their increased state aid into tax relief rather than school budgets, and therefore pupil expenditures statewide are as highly correlated as ever with property wealth.

District educational decisions are also determined by resident income levels, interest in public education and basic values. As a result, district goals, objectives, standards, and program offerings vary substantially, and current expenditures per pupil in New Jersey vary within a range of four to one.

The new act, in addition to the local planning process, calls for a state evaluation process; to date, not a single district budget has been rejected by the state for its inadequacy for being too low. While a substantial amount of state resources have gone into the development, implementation and evaluation of the legislative provision to limit expenditures, virtually no effort has gone into the legislative provision which requires the Commissioner to evaluate the adequacy of district budgets.

If a district administration has successfully completed the "T&E" planning process and its recommendations for an adequate budget have been approved by the local board, its budget decisions are constrained by the expenditure cap itself. The cap fails to recognize cost differentials due to grade level differences,

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[43] Studies completed by the New Jersey Education Reform Project show that the state's major urban centers lowered their school tax rates between 1974/75 and 1977/78 by 19.4%, compared to a statewide average reduction of 11%. At the same time, total expenditures per pupil declined by $160 per pupil compared to the state average. Money and Education a report of the Education Policy Research Institute of ETS, Princeton, March 1978, demonstrated the same results for the state's low wealth districts.

geographic salary level differences or differences in the proportions of students in high cost programs.

If the administration in a low spending district has managed a successful "T&E" planning process, has convinced its board to overlook the past negative voting record of the public, and is determined to provide a substantially improved program and increased budget beyond that permitted by the cap, it must then convince the Commissioner, through the cap waiver process, that the recommended program is necessary. This cannot be an easy task if the SDOE takes the view that their fairness is demonstrated by their granting as many waivers to high spending as to low spending districts. The criteria for waiver approval seem very uncertain at least.

Even if a district has convinced the Commissioner through an articulate and reasoned presentation that the district needs a cap waiver to have a "thorough and efficient" system, it may not be able to convince its voters. Of course the board can climb the ladder of impediments to the next level and appeal the voters rejections of their budget to the Commissioner. However, at this point there is no evidence to indicate that the Commissioner would insist on the retention of the higher budget, despite the fact that he has already declared it to be necessary for a "thorough and efficient" system.

The final impediment in the hierarchy is a legislative self-evaluation process, which allows the legislature to judge its own performance and declare that the system is working

effectively. That judgment however is based fundamentally on a set of values which is in direct contradiction to the goals of the court. The legislature has suggested a goal of reducing interdistrict expenditure disparities in five years. By that time they expect 80% of the districts to fall within a range (using current figures) from $1,285 to $1,739 per pupil, while the other 20% spend whatever they choose above $1,739 per pupil. Clearly such a goal serves merely to perpetuate a system which has resulted in huge interdistrict disparities in per pupil expenditures, which are explained not by educational needs, but essentially by differences in district property wealth.

IX

RECOMMENDATIONS

It is not possible to correct all of the inequities of the new act by simply recommending changes to one of its provisions, but some characteristics of the expenditure cap provision do warrant change. Inasmuch as the JCPS has recommended a goal which is clearly inappropriate, the first recommendation of necessity is a different goal. A more appropriate goal may be to adopt the California court mandate that disparities not exceed $100 per pupil within six years of the court's declaration. However, given the New Jersey history, it might be appropriate both to increase the range and lengthen the time. Therefore, it is recommended that the legislature set a goal of reducing the range of current expenditures per pupil to a maximum of $200 within ten years.

If the legislature makes a serious commitment to achieve this goal, it can do so either by a "leveling-up" or a "leveling down" process. It can force up the expenditures of low spending districts at a faster pace, or it can place an even more stringent lid on high spending districts. The former can only be accomplished by a legislated mandate to the Commissioner to carry out the evaluation requirement of the act. It can not be accomplished by formula changes, as long as districts are not required to take their full cap allowance. If the legislature wishes to achieve its goal of statewide expnediture minimization, and at the same time the court goal of disparity reduction, then

it has no choice but to change the formula in a way that "levels down"the high spending districts. That objective can be achieved by applying the formula now used for below average districts to all districts. The example in Table 2 will demonstrate the effect of the change on five hypothetical districts, assuming a basic cap of $108 per pupil, and a state average net current expense budget per pupil of $1,500.

The result of this change would be to substantially reduce potential increases of high spending districts while allowing low spending districts to increase at the present rate, thereby reducing statewide expenditures and state aid even more than does the present formula. It would also make it possible for lower spending districts to ultimately catch higher spending districts. However, it must be pointed out that in this example, despite the serious limits imposed on high spending districts, the lowest spending district (A) would still be spending approximately $1,300 less than the highest spending district (E) at the end of ten years.

Another defect of the proposed formula is that it is essentially a "leveling down" model, a notion which the legislature, the teachers associations, the School Boards Association, administrators, parents and most citizens strongly oppose. They do not want to see a diminution of the quality of the educational programs in the state's high spending schools, but rather an increase in the quality of the low spending schools. Then why is this formula shown here? It is shown to make the point as

TABLE 2

SIMULATION OF REVISED EXPENDITURE CAP FORMULA
ON FIVE HYPOTHETICAL SCHOOL DISTRICTS

	A	B	C	D	E
Net Current Expense Budget Per Pupil in Pre Budget Year	$1,000	$1,200	$1,500	$2,000	$3,000
Expenditure Cap Calculated by Current Formula[a]	$ 162	$ 135	$ 108	$ 108	$ 108
Expenditure Cap Calculated by Proposed Formula[b]	$ 162	$ 135	$ 108	$ 81	$ 54

[a]For districts with an NCEB in pre-budget year above $1,500, the cap is $108. For districts with an NCEB in pre-budget year below $1,500 the cap is,

$$\$108 \times \frac{\$1,500}{\text{District NCEB}}$$

Example: A $108 $\times \frac{\$1,500}{\$1,000}$ = $162

[b]For all districts, the cap is $108 $\times \frac{\$1,500}{\text{District NCEB}}$

Example: D $108 $\times \frac{\$1,500}{\$2,000}$ = $81

clear as possible, that if expenditure disparity reductions are to be sought through an expenditure cap formula which permits local expenditure discretion up to the cap, only a formula which severely restricts high spending districts will have a chance of achieving that goal. If the formula is to continue in the present form, with only moderate restrictions on high spending districts, then the general planning and evaluation system itself must be altered to insure that low spending districts increase their expenditures at a much more rapid rate than they have so far.

The following formula, which retains the current expenditure cap for high spending districts is a possible solution, if it acts as a guide for required expenditure increases by low spending districts. It allows each district to increase its expenditures per pupil each year by 25% of the difference between its spending level and that of the highest spending district in the state. Such a formula will reduce the difference between district "A" and district "E" from $2,000 per pupil to about $500 per pupil in ten years, a more modest goal than the one described above. It is presented to show precisely what kind of effort is required to achieve a meaningful reduction in expenditure disparities while at the same time permitting the present level of increase for high spending districts.

Proposed Formula:

District Expenditure cap = .25 x (Expenditure per pupil of highest spending district) less (Expenditure per pupil of district)

No district shall have a cap less than that provided by the current formula.

The following table shows the effect of the formula for districts A and E.

TABLE 3

SIMULATION OF REVISED EXPENDITURE CAP FORMULA ON TWO HYPOTHETICAL SCHOOL DISTRICTS

DISTRICT		A		E	
		Cap	Expenditures Per Pupil	Cap	Expenditures Per Pupil
Current year			$1,000		$3,000
year	1	$500	1,500	$108[a]	3,108
	2	402	1,902	108	3,216
	3	328	2,230	108	3,324
	4	273	2,503	108	3,432
	5	232	2,735	108	3,540
	6	201	2,936	108	3,648
	7	178	3,114	108	3,756
	8	161	3,275	108	3,864
	9	147	3,422	108	3,972
	10	138	3,560	108	4,080

[a]For the purpose of illustration, it is assumed that the minimum cap will remain constant, a very unlikely prospect.

Clearly the formula can be modified in a variety of ways. The percentage of 25% can be increased to speed up the process. In order to achieve the recommended goal of a $200 maximum disparity, the proposed formula would require an expenditure cap rate of 50% of the difference between a district's budget and that of the state's highest spending district. If this notion is too threatening, some other realistic expenditure level can be established, but those districts above that level should not be permitted any further increases at all.

The formula demonstrates that not only must there be a substantial increase in the cap of low spending districts; they must be required to raise their expenditure levels to the cap if the fundamental goal of the new act is to be achieved.

Other Changes

In addition to the formula changes recommended by the JCPS report, there are several other changes which should also be made in order to overcome problems discussed in previous sections of this paper.

Expenditure Base

It is important to change the expenditure base in the formula from the Net Current Expense Budget Per Pupil to the Current Expense Budget Per Weighted Pupil. The current expense budget is a better measure because it includes all operating expenditures and should not be inequitably distorted by extraneous revenue items, such as Federal impact aid.

The net current expense budget is now divided by resident enrollment to arrive at the NCEB per pupil. It would be more appropriate to divide the current expense budget by a figure which is determined by adding actual enrollment, plus the number of students in the various "extra-cost" programs described in the state aid formula, multiplied by the weights of those programs. The resultant Current Expense Budget per Weighted Pupil would be a more accurate measure of resources per pupil based upon state defined relative needs.

Area Cost Differentials

The final recommended formula change is to adjust the Current Expense Budget per Weighted Pupil by an area cost differential in order to reflect differences in the purchase price of identical resources. For example, average teacher salaries range from $11,806 in Cumberland County to $15,181 in Bergen County, a difference of 29%. Teacher salaries are 75 percent of most budgets. Therefore, assuming equal class sizes, Bergen County costs per pupil are at least 22% higher as a result of higher area costs over which they have no control. Providing equal caps throughout the state now has the result of permitting a larger increase in actual resources to districts in low cost areas than in high cost areas. To avoid this inequity, the formula should be changed to reflect area cost differentials. One possible solution is to substitute a county average CEB per pupil for a statewide figure.

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CONCLUSION

It is important to conclude this paper with a restatement of the point that the expenditure cap provision is merely one small element of the Public School Education Act, and changing its formula is not going to substantially eliminate interdistrict per pupil expenditure disparities. Change can only come about if the legislature is determined to do so, and if the Commissioner vigorously carries out the legislated task of monitoring all district budgets to insure their adequacy.

As of this writing virtually all of the public discussion regarding the budget cap has centered on its restrictive impact on high spending districts. The cap has resulted in limited statewide expenditure increases in general and has had the effect of constraining both teacher salary increases and the number of teaching positions. As a result, the New Jersey Education Association has made the removal of the cap one of its major legislative goals. The New Jersey School Boards Association and many education administrators have also critized the cap provision.

The fact that the formula adjustment for inflation fell from 7.2% in 1977/78 to 5.4% in 1978/79 was probably the major reason for the increase in waiver applications to 148 in 1978/79, from 78 in the prior year.[44] It may also explain why the Commissioner approved 81% of the requested increases or $39 million

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[44] School Board Notes (Trenton: New Jersey School Boards Association, February 16, 1978), p.4.

in 1978/79, compared to only 43% or $10 million in the prior year.

However an effort to liberalize the formula by eliminating the 3/4 formula adjustment of the inflation rate has not been successful. Although this proposal was passed by the Assembly, so far it has not been able to get enough votes to pass the Senate.

Whatever adjustments are finally made to the expenditure cap provision, they must be supportive of the ultimate purpose of Chapter 212, which is to minimize interdistrict disparities in per pupil expenditure, as a means of providing an equal educational opportunity for all the public school children in New Jersey.